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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,422	05/22/1998	SCOTT CLARE	016325-00221	3984
21586	7590	02/14/2005	EXAMINER	
VINSON & ELKINS, L.L.P. 1001 FANNIN STREET 2300 FIRST CITY TOWER HOUSTON, TX 77002-6760			PEDDER, DENNIS H	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/083,422

Applicant(s)

CLARE ET AL.

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 94,96,97,126 and 127 is/are allowed.
- 6) ☒ Claim(s) 49-56,58-62,,64-73,85-89,91,92,98--99,101,105,106,108,109,111,113 is/are rejected.
- 7) ☒ Claim(s) 57 and 74 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Continuation of Disposition of Claims: Claims pending in the application are 49-62,64-74,85-89,91,92,94,96-99,101,105,106,108,109,111,113,126 and 127.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 85-89, 91 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 85 does not conform to Rule 121 in that the term "contoured" was canceled by amendment of 10/18/2004. This term also lacks antecedent within the claim, rendering the claim indefinite. The claim is treated below as if this is an inadvertent error.

Claim 86 is illogically stated, as a set requires at least two items as in --one of horizontally and vertically--.

Claim 87 lacks antecedent for "the strut".

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 49-55, 58, 60, 98-99, 101, 106, 108-109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparling, US 4,315,653 in view of Hawkins, US 2,159,022.

Sparling has the vehicle as claimed, but lacks a storage system, a detail known in this art as taught by Hawkins at 20/25. Hawkins's storage has top and bottom, inner and exterior side panels as seen in figure 4 and has less width than the wheel well. Panel 25 is hinged. It would have been obvious to one of ordinary skill to provide in Sparling a storage compartment as taught by Hawkins in order to store tools, spare parts, etc. away from the passenger compartment.

As to claim 58, Hawkins has multiple hinged sections 25.

As to claim 60, Hawkins has movable shelf 25, seen in horizontal position in figure 12.

As to claim 101, Sparling discloses a truck. A van is merely a truck with shortened hood, an obvious expedient to one of ordinary skill in this art.

As to claim 108, this is a process not given patentable weight in a product claim (MPEP 2113).

5. Claims 61-62, 64-68, 70-72, 111, 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stahl, US 2,192,207, in view of Hawkins.

Stahl has the vehicle as claimed with contoured (note top of side panel) side panels, rear door and rear side door 25. The side panel has a curve at the wheel well. The width and cross sectional contour of the side panels of both enclosure and forward driver's compartment is the same. Stahl has storage compartment 12 of undefined width relative

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the wheel well. It would have been obvious to one of ordinary skill to provide in Stahl a storage compartment of lesser width than the wheel well as taught by Hawkins in order to maximize interior space.

As to claim 64-68, 70-72, see the multiple storage sections of Hawkins.

6. Claims 85-86, 89, 91-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Stahl or Sparling in view of Hawkins and Hamel.

Paragraphs 4 and 5 above are incorporated by reference regarding the first three cited references above. Hawkins has latch 28, but supports the side panel section 25 via a chain, fig. 12, not a member for resisting compression loading, i.e. strut. Hamel teaches that a hinged side panel section may be hinged to open upwardly and be supported by a strut as seen in figure 1. It would have been obvious to one of ordinary skill to provide in either Stahl or Sparling a storage compartment as taught by Hawkins in order to keep tools, etc. handy for immediate access and further obvious to hinge the side panel section at top and support with strut as taught by Hamel as a shelter from rain, for example.

7. Claims 56, 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparling or Stahl in view of Hawkins as applied to claims 49, 61 above, and further in view of Hamel.

It would have been obvious to one of ordinary skill to provide in either set of references above a top hinge side panel section with strut support as taught by Hamel in order to shelter from rain.

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8. Claims 59, 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparling or Stahl in view of Hawkins optionally in view of Hamel as applied to claims 49, 85 above, and further in view of Gallagher et al..

It would have been obvious to one of ordinary skill to provide in each set of references above a drain/air relief valve as taught by Gallagher et al. in order to remove moisture from the compartment.

9. Claims 69, 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stahl in view of Hawkins as applied to claim 61 above, and further in view of Hamel.

It would have been obvious to one of ordinary skill to provide in the references above an upper hinged section above the wheel well with strut support as taught by Hamel in order to access without bending and protect from rain.

10. Claim 105 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sparling in view of Hawkins as applied to claim 50 above, and further in view of Powers, Des. 143,990.

It would have been obvious to one of ordinary skill to provide in the references above a width of the wheel well approximately that of the storage area as taught by Powers in order to increase the storage volume for larger items.

***Allowable Subject Matter***

11. Claims 94,96,97, 126, 127 are allowed.

12. Claims 57, 74, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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13. Claim 87 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

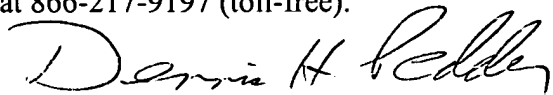
***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jewett et al. is cited to show a van with seating.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder  
Primary Examiner  
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DHP



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